IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY FIFTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 5949 of 2005

Between:

1 A. Balram Naik, S/o. Late Parasuram Naik,
R/o. Dandepally Village & Mandal, Adilabad District.
2 M/s. Srinivasa Modern Rice Mills, rep. by its Partner, Balram Naik, at Sy.No.446, Dandepally Vill & Mandal, Adilabad District.

..... PETITIONERS

AND

1 Gram Panchayat, Dandepally Village, Rep. by its Sarpanch, Dandepally Vill. & Mandal, Adilabad District.
2 The Secretary, Gram Panchayat, Dandepally Vill & Mandal, Adilabad District.
3 The Mandal Parishad Development Officer, Dandepally Mandal, Adilabad District.
4 The Agent to the Govt, Adilabad District, Adilabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ or order or direction more particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the action of the 1st respondent in digging a open well in the land in Sy.No.446/K, with in a radius of 50 feet from the rice mill premises of the petitioner known as Sri Srinivasa Modern Rice Mill, Dandepally Village, Adilabad District, as illegal, arbitrary, whimsical, unjust, violative of Article 14, 21 & 300(A) of Constitution of India and in violation of the provisions of A.P. Schedule Area Land Transfer Regulations 1959 as amended and consequently direct the 1st respondent not to dig the well in Sy.No.446/K of Dandepally village and Mandal, Adilabad District in the interest of justice and be pleased to pass such other order/s as the petitioners are entitled in law to meet the ends of justice and fair play.

Counsel for the Petitioner : MR. B.VENKAT RAMA RAO

Counsel for the Respondent No.1: MR. V. SUBRAHMANYAM
Counsel for the Respondent Nos 2 and 3: SMT.JYOTHI ESWAR GOGINENI
Counsel for the Respondent No.4: G.P. FOR SOCIAL WELFARE.

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.5949 OF 2005

ORDER:

The first petitioner states that he belongs to a Scheduled Tribe and that having constituted a partnership firm along with his sons he has been running the second petitioner rice mill having constructed the same in their own land to an extent of Ac.0.16 guntas in Sy.No.446 of Dandepally Village and Mandal in Adilabad District.

It is stated that the said Dandepally Village is a notified scheduled area and as such governed by the provisions of A.P. Scheduled Areas Land Transfer Regulations, 1950. It is alleged that the first respondent Grampanchayat at the instance of some of the

non-tribals who are inimically disposed against the petitioners has proposed to dig an open-well within a distance of 5 to 6 yards from the petitioner's rice mill with an ulterior motive to make the said rice mill inoperative. It is contended that if the respondents 1 and 2 are allowed to dig the said well, there is every possibility of

seepage of underground water into the elevator pits (plant machinery) having depth of 10 feet of the rice mill resulting in closing down of the activity of the petitioner's rice mill. It is also contended that there is no need for digging such an open well since 90 per cent of the individual persons in the village are having open wells and there are also two community bore wells and 15 hand bore sets belonging to the Grampanchayat are existing catering to the needs of the public. It is alleged that though Gramakantam land is available wherein in the respondents 1 and 2 could have dug a bore-well, they have deliberately proposed the well in the present site belonging to one non-tribal. It is stated that it is not in the interest of the public and therefore the entire action of the respondents is arbitrary and illegal. It is also contended that the objections raised by the petitioner have not been considered by the respondents 3 and 4. Hence, this writ petition seeking a declaration that the action of the first respondent in digging the open well in the land in Sy.No.446/K within a radius of 50 feet from the first petitioner rice mill is arbitrary and illegal.

The learned Standing Counsel for Grampanchayt, under instructions, states that the District Collector, Adilabad, by proceedings dated 23-01-2005 sanctioned an amount of Rs.2,50,000/- for construction of open well at Dandepally village under National Food for Work Programme for the year
2004-05 for the purpose of providing drinking water and employment to the villagers. On 12-01-2005 the Grampanchayat passed an unanimous resolution for construction of open well and accordingly the respondents have been proceeding for construction of the same.

Having heard the learned counsel for both the parties and on a perusal of the material on record it is clear that the land in question wherein the open well is proposed to be dug has been donated in favour of the Grampanchayat by one E.Devaiah. The petitioner does not dispute the fact that the said land does not belong to him but only alleges that since the respondents have proposed to dig the well just adjacent to his rice mill, the same is likely to damage his rice mill and therefore, the respondents ought to have chosen a different site. I am unable to agree with the contentions of the petitioner. On the face of it, the matter does not involve enforcement of any legal right or statutory obligation. No specific case is made out to show that the respondents are acting in breach of any statutory

obligation. Particularly in view of the fact that the Gram Panchayat has proposed to dig a well so as to provide drinking water to the public, the objections raised by the petitioner do not deserve any consideration and the interference of this Court is not at all warranted.

The writ petition is misconceived and the same is accordingly dismissed. No costs.

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G. ROHINI, J

Dated:25-03-2005

gbs

To

1. The Sarpanch, Gram Panchayat, Dandepally Village, Dandepally Vill. & Mandal, Adilabad District.
2 The Secretary, Gram Panchayat, Dandepally Vill & Mandal, Adilabad District.
3 The Mandal Parishad Development Officer, Dandepally Mandal, Adilabad District.
4 The Agent to the Govt, Adilabad District, Adilabad.

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